

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:18-CR-137-FL-1

UNITED STATES OF AMERICA)
)
 v.) ORDER
)
 JOSE DOLORES HERNANDEZ-)
 AGUILAR,)
)
 Defendant.)

This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge Robert B. Jones, Jr., regarding defendant’s motion (DE 20) to dismiss indictment. No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

The district court reviews de novo those portions of a magistrate judge's M&R to which specific objections are filed. 28 U.S.C. § 636(b). Absent a specific and timely filed objection, the court reviews only for "clear error," and need not give any explanation for adopting the M&R. Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). In this case, the magistrate judge correctly determined that dismissal was not warranted due to lack of subject matter jurisdiction or 8 U.S.C. § 1326(d). See United States v. Mendoza-Lopez, 481 U.S. 828, 834 (1987); Sorcia v. Holder, 643 F.3d 117, 119 n.1 (4th Cir. 2011).

Accordingly, upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, defendant's motion to dismiss is DENIED.

SO ORDERED this the 5th day of February, 2019.



LOUISE W. FLANAGAN
United States District Judge